

ZONING BOARD OF APPEALS
“DRAFT MINUTES” (not yet approved by board)
JANUARY 11, 2007

**Town of Big Flats
Community Center
Conference Room “D”
7:00 P.M.**

A special meeting of the Town of Big Flats Zoning Board of Appeals of the Town of Big Flats, Chemung County was held at the Big Flats Town Community Center in said Town of Big Flats on the 11th day of January 2007, at 7:06 p.m. The meeting was called to order by Thomas Rhodes, Chairperson and upon roll being called, the following were:

PRESENT: Tom Rhodes, Chairperson
Don Williams
Dick Seely

ABSENT: Joe Rowe
Harry King

STAFF: Maureen Harding, Director of Planning
Brenda Belmonte, Zoning Board of Appeals Secretary
Sheree McGannon, Deputy Town Clerk

GUESTS: None

MINUTES:

Chairman Rhodes asked if there were any corrections before accepting and approving the minutes of December 28, 2006. Rhodes requested the words “however, the benefits to the traffic circulation and safety outweigh the self created hardship” be added to page 8, number 5 regarding the effects of the requested variance. Williams made a motion to accept and approve the minutes of December 28, 2006, seconded by Seeley. All were in favor except Rowe and King were absent, motion carried.

**RESOLUTION ZBA 1-2007
ZONING BOARD OF APPEALS VICE-CHAIRPERSON
FOR YEAR 2007**

Resolution by: Seely
Seconded by: Rhodes

WHEREAS, Zoning Board of Appeals member Don Williams has agreed to serve as the Zoning Board of Appeals Vice-Chair for the Year 2007; and

WHEREAS, that for environmental review pursuant to 6NYCRR, Part 617.3, that this action is an administrative action, which is a Type II action under SEQRA and no further review is required; and

NOW, BE IT THEREFORE RESOLVED, that this Board appoints Don Williams as Vice-Chair for the Zoning Board of Appeals for the Year 2007.

CARRIED: **AYES:** Rhodes, Seely
NAYS: None
ABSTAIN: Williams
ABSENT: Rowe, King

Dated: Thursday, January 11, 2007
BIG FLATS, NEW YORK

By order of the Zoning Board of Appeals of the Town of Big Flats

THOMAS RHODES
Chairman, Zoning Board of Appeals

RESOLUTION ZBA 2-2007

2007 CHAIRMAN OF THE ZONING BOARD OF APPEALS

Resolution by: Seely
Seconded by: Williams

WHEREAS, the *Town Board* makes a recommendation of a candidate for appointment by the *Town Board* to be Chairman of the Zoning Board of Appeals each year; and

WHEREAS, Thomas Rhodes has consented to be reappointed Chairman of the Zoning Board of Appeals; and

NOW, THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals affirms that the *Town Board* has re- appointed Thomas Rhodes to be Chairman of the Zoning Board of Appeals for 2007 pursuant to Town Board Resolution 40-07.

CARRIED: **AYES:** Seely, Williams
NAYS: None
ABSTAIN: Rhodes
ABSENT: Rowe, King

Dated: Thursday, January 11, 2007
BIG FLATS, NEW YORK

By order of the Zoning Board of Appeals of the Town of Big Flats

THOMAS RHODES
Chairman, Zoning Board of Appeals

MEMBERS COMMENTS:

Rhodes asked Maureen Harding for any comments regarding a staff planning report provided to the Board defining substantial as in the *New York Zoning Law and Practice*. Harding noted that use variances are granted on a minimum basis and area variances are granted to provide relief to property owners as authorized by the Zoning Board of Appeals. Rhodes commented that it is often difficult to determine what is substantial. Harding stated from the report, that the zoning board of appeals must consider the magnitude of the requested variance in light of the impact of the variance. This is not achieved by using a simple mathematic formula although cases suggest that the larger the variance requested, the more likely that is that it will have some negative effect on the neighborhood. She stated that in the future the Board might want to weigh the benefit against the health, safety and welfare of the neighborhood.

Seely asked Harding for clarification on the duties of the Planning Board and the Zoning Board of Appeals in regards to area variances. Harding explained the Planning Board's charge is to look at things from a site plan and sub-division perspective.

Williams asked about the status of an alternate for the ZBA. Harding explained that no public hearing would be necessary for the Zoning Board but once the Town Board holds a public hearing and adopts the local law allowing the amendment, a public meeting will be held to amend the Rules and Procedures. Harding also reported that nothing is currently before the Planning Board that needs a referral. Next meeting will be March 29, 2007.

Since there was no further business to come before the Zoning Board of Appeals, the meeting was adjourned at 7:29 p.m.

Date approved: _____

Brenda Belmonte
Town of Big Flats
Zoning Board of Appeals Secretary

DRAFT

**TOWN OF BIG FLATS ZONING BOARD
MINUTES OF THURSDAY, APRIL 26, 2007**

**7:00 P.M.
REGULAR MEETING
Big Flats Community Center
Conference Room "D"**

PRESENT: Thomas Rhodes, Chair
Don Williams
Harry King
Dick Seely
Tom Clark

ABSENT: Joe Rowe

STAFF: Ron Sherman, MRB Group
Eric Corey, Code Enforcement Officer
Brenda Belmonte, ZBA Secretary

GUESTS: Jean Winner, Kevin Reiman, Sarah Reiman

AGENDA:

The Board agreed with the agenda as presented.

MINUTES

Rhodes asked if there were corrections before accepting and approving the minutes of January 11, 2007. Williams made a motion to accept and approve the minutes of January 11, 2007, seconded by Clark. All were in favor, motion carried.

**PUBLIC HEARING
WINNER SUBDIVISION
AREA VARIANCE
TAX PARCEL #46.00-2-33.1**

Chair Rhodes called the Public Hearing to order at 7:00 P.M. He noted the Public Hearing was duly published in the Elmira Star-Gazette. He then went on to describe details of the proposed action. He further stated that the purpose of the Public Hearing was to receive public comments on the application that is the subject of this Public Hearing. Rhodes asked for comments from those present who wished to speak:

IN FAVOR: None
AGAINST: None
COMMENTS: None

Rhodes closed the Public Hearing at 7:30pm to reconvene the business portion of the meeting.

Rhodes reviewed the Area Variance and asked for comments or questions.

There were questions and discussion relative to the placement of the more or less northerly property line that would create and subdivide Parcel A from Parcel B.

Jean Winner expressed her desire to keep the tree shown on the survey map in the easterly property line and the lawn to the north.

The general consensus of the ZBA was to: maximize Parcel A; maintain a minimum of three (3) acres for Parcel B; maintain all minimum New York State Department of Health required separation distances from the existing wastewater absorption system and well; place the subdividing northerly property line perpendicular to the centerline of road chord immediately west of the existing residence; and, place the subdividing northerly property line parallel to the northerly side of the existing residence, assuming the two (2) equal offset residence distances from the road centerline chord are equal.

**RESOLUTION ZBA 3-2007
WINNER AREA VARIANCE
DECISION OF THE ZONING BOARD OF APPEALS
TAX PARCEL #46.00-2-33.1**

Resolution by: Williams
Seconded by: King

WHEREAS, the Planning Board, by their Draft Resolution P103-2007, has accepted and approved the documentation in this application as a Conceptual Subdivision Review and has referred an application for an Area Variance from Jean L. Winner, owner of tax parcel #46.00-2-33.1 for a subdivision of 5.9387 acre parcel as shown in documents received March 15, 2007, to the Zoning Board of Appeals; and

WHEREAS, the parcel is located at 128 Breed Hollow Road in the Rural District (RU); and

WHEREAS, Chapter 17.16.020 of the Town Municipal Code requires a minimum of a 3 acre parcel for a subdivision in the RU district, and the applicant is proposing to create a subdivide parcel of 1.75 acres, thus requiring a variance of approximately 1.25 acre; and

WHEREAS, for environmental review purposes an Area Variance is a Type II action pursuant to 6NYCRR 617.5, and as such no further review is required; and

WHEREAS, the applicant has submitted a letter supporting her application and addressing the criteria used by the ZBA to determine if relief should be granted, and the minimum relief necessary; and

WHEREAS, in connection with such application, the Zoning Board has received and reviewed an application, held a public hearing and received comments thereat; and

WHEREAS, the applicant proposes to subdivide parcel #46.00-2-33.1 to create the following:

- Parcel A being approximately 1.75 acres containing vacant land taken from parcel #46.00-2-33 for the purpose of constructing a new single residence; and,
- Parcel B being approximately 4.189 acres that would remain containing a single residence.

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by the granting of the area variance? NO
2. Can the benefit/relief sought by the applicant be achieved by some method that will be feasible for the applicant to pursue but would not require a variance? NO
3. Is the requested variance substantial? YES
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? NO
5. Is the alleged difficulty self-created? NO

WHEREAS, the intent of this resolution is to place the division line within the following parameters:

- The subdivision is referenced to the June 12, 1987, Boundary Survey, Lands Owned By Jean L. Jacobus (Carpenter), Town of Big Flats, County of Chemung, State of New York, Prepared by Kenneth R. Decker, Professional Land Surveyor, Big Flats, New York; and
- The division line subdividing Parcel A, the estimated 2.1 more or less acre parcel, from the surveyed 5.9387 acre parcel, shall begin in the centerline of Breed Hollow Road a distance of 322.50 feet at a bearing of S17-38-40W from the northwesterly corner of the surveyed 5.9387 acre parcel, and extend easterly from and perpendicular to Breed Hollow Road S70-36-41E to an intersection point in the easterly boundary line of the 5.9387 acre parcel; and
- The division line shall intersect the easterly property line north of the existing tree shown on the referenced Decker survey map; and
- The remaining estimated 3.8 more or less acre parcel south of Parcel A shall be identified as Parcel B; and
- The final area of Parcel B shall not be less than 3.0 acre; and
- The existing and proposed Parcel B residence, water supply well, household wastewater treatment system, and other improvements listed in Table 2 of NYSDOH Appendix 75-A Wastewater Treatment Standards – Individual Household Systems, requiring a minimum separation distance from a property line, shall be shown on the final plat; and
- The proposed Parcel A new residence shall meet all Residential 1 (R1) district setback requirements; and
- The division line shall be a minimum of ten (10) feet north of the items listed in the NYSDOH Appendix 75-A Table 2; and

NOW, THEREFORE, BE IT RESOLVED, that the application for approval of the aforementioned variances of Sections 17.16.020 of the Zoning Law of the Town of Big Flats is hereby granted for the reasons stated above.

CARRIED:

AYES: Rhodes, Williams, King, Seely Clark

NAYS: None

ABSENT: Joe Rowe

Dated: Thursday, April 26, 2007

BIG FLATS, NEW YORK

By the order of the Zoning Board of Appeals, of the Town of Big Flats

THOMAS RHODES

Chairman, Zoning Board of Appeals

MEMBERS COMMENTS:

Since there was no further business to come before the Zoning Board of Appeals, the meeting was adjourned at 7:55pm.

Dated: Thursday, April 26, 2007

BIG FLATS, NEW YORK

Respectfully Submitted

Brenda Belmonte

Zoning Board of Appeals Secretary



**TOWN OF BIG FLATS
ZONING BOARD OF APPEALS**

REGULAR MEETING

**UNAPPROVED MINUTES
JUNE 28, 2007**

Members Present: Tom Rhodes, Chair, Joe Rowe, Harry King, Dick Seely, Don Williams,
Tom Clark, Alternate Member

Members Absent: None

Staff Present: J. Justin Woods, Planning Director, Brenda Belmonte, ZBA Secretary

Meeting called to order at 6:58PM by the Chair, noting all members were present, including the alternate.

Minutes

Rhodes asked for any corrections to the minutes of May 31, 2007. **Motion by Seely to approve the minutes, seconded by Williams, Discussion: None Motion Carries 5-0.**

Variance Request for Rerob LLC Car Wash

The Planner reported that Sarah Campbell, representing Rerob LLC Car Wash has asked for a continuance until the next ZBA meeting on July 26th. **Motion to continue hearing to July 26, by Williams, seconded by Rowe, Discussion: None, Motion Carries 5-0.**

Variance Request for Bravo Subdivision

The Planner informed the board that the Bravo Subdivision application was removed from the agenda because there was no ZBA application completed, and no Public Hearing had been published. An application to the Zoning Board of Appeals needs to be completed before a hearing can be scheduled.

Variance Request for Button Garage

The Button garage replacement application will be continued until the July 26th meeting to allow time for the applicant to formally withdraw. **Motion to continue hearing to July 26, by Rowe, seconded by Seely, Discussion: None, Motion Carries 5-0.**

Planning and Zoning Summer School on July 26

The ZBA Secretary will register members interested in the board training on July 26.

General Discussion on Board Rules of Procedure & Policies

Rules and procedures of the board were discussed, including procedures for alternates, and conflicts of interest. Justin will check with the Town Board regarding an amendment to pay alternate. "Conflict of interest" interpretation was discussed among the board

Minutes Procedure

The Planner discussed Minutes procedures and proposed submitting staff reports on each application in lieu of draft minutes. A staff report would include staff recommendations and would also be given to applicant as part of their due process. The minutes are proposed to be more of a summary of the meeting and reflect all official action and requests, but less like transcripts. Chair noted that this was a good idea since having so many different sets of minutes can be confusing. Other members agreed to the proposal without objection.

Motion to adjourn the meeting 7:34 by Seely, seconded by Rowe, Discussion none Motion carries 5-0. Meeting adjourned at 7:35.



**TOWN OF BIG FLATS
ZONING BOARD OF APPEALS**

REGULAR MEETING

**UNAPPROVED MINUTES
JULY 26, 2007**

Members Present: Tom Rhodes, Chair, Joe Rowe, Harry King, Dick Seely, Don Williams,
Tom Clark, Alternate Member
Members Absent: None
Staff Present: J. Justin Woods, Planning Director, Brenda Belmonte, ZBA Secretary
Others Present: James Gensel, John Bravo arrived at 7:10

Meeting called to order at 7:00 by the Chair, noting all members were present, including the alternate.

Minutes

Rhodes asked for any corrections to the minutes of June 28, 2007. **Motion by Williams to approve the minutes, seconded by Seely, Discussion: None, Motion Carries 5-0 all approve.**

Training Report

Subjects of today's training at Geneseo were reviewed including, zoning, appellate court decisions, record keeping, and SEQR. Planner announced upcoming training by Dept of State in Horseheads. Planner also reminded the members that they had to complete 6 hours of training for the year to maintain eligibility to serve on the Board. Secretary will register those interested.

Proposed Meeting Schedule/Location/ Rules of Procedure

Planner explained proposed changes to ZBA & Planning Board meeting schedules. ZBA changes day from 4th Thursday to 4th Tuesday of each month and will be held in the Big Flats Town Courtroom. The board agreed to the proposed changes to the schedule and location. Next meeting scheduled for August 28th. **Motion by Rowe to amend Sections 3.1 and 3.2 of the ZBA Rules of Procedure of to change the meeting schedule and location, seconded by Williams, Discussion: None, Motion carries 5-0.**

The Board also discussed amending to the rules to reflect the new Local Law creating an alternate member. **Motion to amend the Rules of Procedure to reference the new Local Law creating an alternate member by Joe Rowe seconded by King, Discussion: None, Motion carries 5-0.**

Authorization to Sign

Planner explained the purpose of an authorization; once the ZBA makes a final decision, he would be allowed to review and sign the approved plans and decisions, allowing for them to be filed in a timely manner with the County Clerk's office. The board discussed the details of this authorization with the Planner. **Motion giving authorization for the Planner to sign by Williams, seconded by Seely. Discussion: None, Motion Carries 5-0.** Board Members signed authorization document.

Proposed Vacant Structure Law

Planner explained that at the Town Board Meeting's Public Hearing there were no comments on the Vacant Structure Law. It will be voted on by Town Board once the 30 day comment period from the County has elapsed. The hope is that other towns will also adopt this.

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ZONING BOARD OF APPEALS
UNAPPROVED MINUTES
JULY 26, 2007
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Town Board may initially serve as the anti-blight commission, hoping for evolvement of a regional anti-blight commission in the future. Rowe would like to see a board member be involved in the commission. Planning & Code office will be charged with the implementation. Planner will review agriculture buildings and how they would be involved with this law. Further development of the worksheet was discussed regarding who would be involved and how it would be implemented. Planner would like to see more objective criteria developed during the implementation phase.

Proposed Changes to Members' Terms, Limits on Chairing Boards/Committees/Residency Requirements

Town Board is reviewing terms of all Boards & Commissions, possibly recommending each term be 3 years. Also discussing changes to Chairperson's term length – a proposed cap on two consecutive years as chair allowing the members to rotate. Town Board will continue to appoint the Chair. The Town Board is also discussing residency requirements of board members. The board discussed appointing their own chair – Planner explained that the Town Board, under local and state law, will continue to appoint Chairs.

Mail

Planning Staff reviewed all of the correspondence in the ZBA's mailbox. This consisted of copies of the three decisions made by the Planning Board at its last meeting and a copy of a letter from the Planner to the engineer working on the Commons project.

Variance Request for Rerob LLC Car Wash

The Planner reported that Sarah Campbell, representing Rerob LLC Car Wash is on vacation and another lawyer in her firm has faced a request for a continuance to the August 28 ZBA meeting. **Motion to continue hearing to August 28, by Seely, seconded by Rowe . Discussion: None, Motion Carries 5-0.**

Variance Request for Plumley Garage

Planner explained written request from applicant to withdraw.

Motion to withdraw application without prejudice by Seeley, seconded by Rowe, Discussion: None, Motion Carries 5-0.

Variance Request for Button Garage

Planner explained written request from applicant to withdraw.

Planner explained written request from applicant to withdraw. Motion to withdraw application without prejudice by Seeley, seconded by Rowe, Discussion: None, Motion Carries 5-0.

Variance Request for Bravo Subdivision

Chair opened the Public Hearing 7:46 PM: The Planner informed the board that since the last meeting, a complete application for the variance request has been submitted and a notice of the hearing was advertised in the paper. The applicant presented his case for a variance and the planner reviewed his staff report recommending against the variance. **Public Comments:** James Gensel, Fagan Engineer, representative for Bravo explained the proposed subdivision plan. He presented an aerial photo of the neighborhood and it was distributed to the board members. Applicant intends to phase in development of the remaining property. Discussion involving a cul-de-sac – Planner explained staff comments. There is no hardship - Staff would work with applicant to look for a remedy to his problem, but one that solves the problem for the entire area. Precedent of creating a variance with the knowledge of what has been proposed previously and what is intended for the future is not a good idea. Bravo explained his position regarding lot size. This application does not meet the requirements of getting a variance and would be establishing a precedent. There was further discussion on reduction of lot size. Bravo explained his

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ZONING BOARD OF APPEALS
UNAPPROVED MINUTES
JULY 26, 2007
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1 financial position regarding the proposed development. No further comments. **Public Hearing closed at**
2 **8:02.**

3
4 **Motion by Rowe to deny the request for variance. Seconded by Seely. Discussion:** Rowe explained
5 his reason for denial – no reason why it could not meet with the criteria, there is enough property to meet
6 the requirements, and this would be setting precedence. This is not the only area with non-conforming
7 lots, and is not an isolated issue. The board has had requests similar to this previously. Documentation
8 presented by the application shows enough property to meet requirements. If there were issues preventing
9 the applicant to meet the requirements it may be different. This is a substantial request. Seely explained
10 why he disagreed – older house is not worth much financially – if the request would help the applicant
11 with a Sing Sing Rd. exit, he feels we are imposing a hardship on the applicant by requesting a lot that
12 conforms with the requirements. Rowe stated the board is not here to decide according to financial
13 issues- the lot size is the issue and what is being requested by the variance. Rhodes reviewed Planner's
14 comments in staff report. Planner explained variance does not meet the 5 criteria for a variance.
15 Currently the lot meets zoning, proposal will make lot not meet zoning by 15,000 sq ft. – nearly 50
16 percent. This variance is substantial. Minimum lot size should be 35,000 sq ft. Rhodes read zoning law
17 requiring 35,000 sq ft minimum. No further comments. **Vote: Motion Carries 4-1 with Williams**
18 **voting against the motion.**

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20 **Motion to adjourn the meeting at 8:19 by Seely , seconded by Williams , Discussion: None Motion**
21 **carries 5-0. Meeting adjourned at 8:20.**
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**TOWN OF BIG FLATS
ZONING BOARD OF APPEALS
UNAPPROVED MINUTES
AUGUST 28, 2007
PAGE 1 of 1**

Members Present: Tom Rhodes, Chair, Joe Rowe, Harry King, Dick Seely, Don Williams,
Tom Clark, Alternate Member
Members Absent: None
Staff Present: J. Justin Woods, Planning Director, Brenda Belmonte, ZBA Secretary
Others Present:

Meeting called to order at _____ pm by the Chair, noting all members were present, including the alternate.

Minutes

Rhodes asked for any corrections to the minutes of July 28, 2007. **Motion by _____ to approve the minutes, seconded by _____, Discussion: None, Motion Carries 5-0 all approve.**

Rules of Procedure

Provided for reference. The board will review any changes at its annual organization meeting. Members asked to review and think about any proposed changes.

Training

Training – September 19 & 20 – Free training in Horseheads. All board members have been registered. These hours will count towards the members' training requirements.

Vacant Structures

Ridgeline Overlay District

Mail

Variance Request for Rerob LLC Car Wash

Motion to adjourn the meeting at _____ by _____, seconded by _____, Discussion: None
Motion carries 5-0. Meeting adjourned at _____.



**TOWN OF BIG FLATS
ZONING BOARD OF APPEALS**

REGULAR MEETING

**UNAPPROVED MINUTES
SEPTEMBER 25, 2007**

Members Present: Tom Rhodes, Chair, Joe Rowe, Harry King, Dick Seely, Don Williams, Tom Clark, Alternate Member

Members Absent: None

Staff Present: J. Justin Woods, Planning Director, Brenda Belmonte, ZBA Secretary

Others Present: Betty Walker, Donald Walker, George Buck, Clay Ambrose, James Gensel, Ann Clarke, Angela Piersimoni, Jerry Welliver, Carolyn Welliver, Patricia Hutten, Dorothy Peck, Carrie, Mizio, Regina Wolcott, Betty McIntyre, Lois Gee, Joanne Inserra, Lee West, Bonnie Topping, Jane King, Board Member Ed Fairbrother, Albert Redner, Linda Redner

Meeting called to order by the Chair at 7:00, noting all members were present, including the alternate.

Minutes

Rhodes asked for any corrections to the minutes of August 28, 2007. **Motion by Rowe seconded by Seely to approve the August 28 minutes, Discussion: None, Motion Carries 5-0**

Reports

Schweizer Brownfield Investigation Report

Report supplied to board members for informational purposes. Any contamination found on the site was confined to a small area, which Schweizer is aware of. Remediation plan will be submitted to Town of Big Flats for comment when complete.

Chemung River Master Plan

Master plan overview meetings will be held October 1, 7:00pm at the Town Hall in Chemung, and October 18, 7:00pm at the Big Flats Community Center.

American Twin Harley-Davidson

Chair Opened the Public Hearing at 7:02PM:

Planner explained he had met with applicant and reviewed the zoning for the proposed plan. The Town Center (TC) district does not allow vehicle sales. The Applications Committee reviewed the application which was incomplete, but agreed with the planner that sales are not allowed in this district and forwarded the Application to the full Planning Board which referred the application to the ZBA for review. The Town Ordinance is very clear in specifying motorcycles in its definition of vehicle sales.

James Gensel, of Fagan Engineers, presented a floor plan for the franchise along with a letter a letter and stated the applicant wishes to appeal the Zoning Officer's ruling. The applicant is approaching the board for an interpretation to the ruling regarding the Town Center district. The proposed floor plan is for a 22,800 square foot building, the largest part *not* consisting of vehicle display but of a service center area along with retail items. All stock and vehicle displays would be contained inside the building. The primary focus of this business is vehicle service and general merchandise. Gensel feels other uses would have a

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ZONING BOARD OF APPEALS
UNAPPROVED MINUTES
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1 larger Environmental Impact than the proposed application. Impervious coverage would be 30%,
2 which is significantly less than the 50% allowed in the TC district. The location to the Interstate
3 86 right-of-way is such that other TC uses are not as applicable to the area. Gensel believes the
4 proposed building would be compatible with the existing uses in the TC district such as Miniers,
5 Big Flats Modular Housing, and Four Seasons Recreational Vehicles. The applicant would like
6 to move to Big Flats to expand their building space. Due to franchise boundaries, the Big Flats
7 area is the most eastern location allowed. If this location is not made available the business will
8 remain in Corning.

9 Ann Clarke, Planning Consultant, feels the original zoning was intended to keep the TC district
10 intact and believes the ZBA should evaluate the intent of the law. The concept of the master plan
11 was to keep the unique entity of the Town Center, which has a combination of retail,
12 manufacturing and schools, and allows residences and businesses to coexist. The primary
13 concern of vehicle sales was that of visual impact regarding car lots and outside storage of
14 vehicles.

15 Clay Ambrose, 931 Oakhill Drive, Elmira, NY feels the proposed project is covered under more
16 uses that are acceptable than are not. After hearing Ms. Clarke's opinion of the intent of the
17 Master Plan, he feels it makes even more sense. Ambrose is the realtor handling the sale of the
18 site, and stated it has been on the market for a number of years with not much activity. The site is
19 located in a strategic place where residential use would not be practical. The proposed use seems
20 to 'fit'. His understanding is a truck stop or gas station would fit the TC zoning but would not
21 compare to what has been presented. His hope is this panel would strongly consider the use
22 being presented this evening.

23 Seely questioned the plans for a training course later on. Gensel explained that one of the
24 functions of the franchise is to help people acquire their license and a training course would be
25 allowable under schooling in the town code. Clark explained this would not be a motocross
26 track, but a road course to practice for a license.

27 The Planner explained the request is now for this board to overturn his ruling that this is vehicle
28 sales. He also explained that, in terms of the intent of the Master Plan as stated by Ms. Clark, it
29 is hard to determine what happened 10 years ago. He read section 17.04.050 of the Big Flats
30 Zoning Law regarding vehicle sales. This plan is inconsistent with the zoning and the strategic
31 planning of the town. If the Planner's ruling is overturned, the applicant may proceed with a site
32 plan; if denied it would prohibit the applicant from going forward. King stated that according to
33 the map, a large portion of this site is in the flood zone. Planner answered yes, however this is
34 information that would be addressed by the Planning Board during a site plan review.

35
36 **Public Comments:**

37 Al Redner, 36 Olcott Road, Big Flats, NY – Redner doesn't understand why this application is
38 being discussed. The zoning has already been set by the town's forefathers. He is not against the
39 Harley franchise coming to town, however he is against the proposed location. Redner doesn't
40 believe a truck stop would be interested in that property; there is not enough acreage or direct
41 access. Other locations are more viable to Harley's interest.

42
43 Patricia Huton, Site Manager for Town Haven - Huton presented a petition signed by 100% of
44 the residents to not grant this variance; they are not against having a Harley Dealership in the
45 area, but feel the proposed location would interfere with their quiet living.

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ZONING BOARD OF APPEALS
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1 Jane King, 15 Kelley Drive, Big Flats, NY – King believes the assessed value of homes in the
2 neighborhood would decrease, and that the noise would not be tolerable. The proposed plan is
3 not compatible with zoning.
4

5 JoAnn Inserra, 50 Olcott Road, Big Flats, NY – Inserra commented that the street is very narrow
6 and that traffic flow would increase tremendously as would noise from people test-driving bikes.
7

8 Regina Wolcott, 50 Olcott Road, Big Flats, NY – Wolcott has been in Corning and realizes what
9 events are promoted at the Harley Davidson Dealership there. This would be too noisy in that area.
10

11 Lois Gee, Town Haven, Big Flats, NY – Gee is also concerned about the noise and feels that
12 once a business is established it would be much harder to deal with.
13

14 The Planner stated that any noise concerns would be reviewed during a site plan review and is
15 outside the consideration of the Zoning Board
16

17 Bonnie Topping, Town Haven, Big Flats, NY – Although the enclosed building would hold any
18 motorcycles for sale, the service area, being 85% of the business, would have open doors and
19 would promote noise.
20

21 **Public Hearing closed at 7:34PM.**
22

23 **Rowe made a motion, seconded by Williams to adopt the draft findings and uphold the**
24 **ruling of the Zoning Officer, which would deny the applicants request.**
25

26 **Discussion:** Rowe stated that the Town Center concept is to have a unique entity. Whether
27 inside or outside of the building, this is sales activity and a place where the public could go to
28 purchase a motorcycle. The applicant is asking to overrule the findings of the Zoning Officer
29 which are according to the code. Allowing motorcycle sales would set precedence for other
30 vehicle sales in the TC district. **Motion carries 5 in favor to zero against.**
31

32 Members Comments:

33 Seely and Rhodes commented that the ZBA training on September 19th and 20th was excellent.
34 Woods reported that a portion of the Planners Conference dealt with greenways and tied in to
35 what we are doing here in Chemung County.
36

37 **Motion to adjourn the meeting at 7:44 by Rowe, seconded by Seely, Discussion: None,**
38 **Motion Carries 5-0. Meeting adjourned at 7:45.** .
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**TOWN OF BIG FLATS
ZONING BOARD OF APPEALS**

REGULAR MEETING

**UNAPPROVED MINUTES
NOVEMBER 27, 2007**

Members Present: Tom Rhodes, Chair, Joe Rowe, Harry King, Dick Seely, Don Williams,
Tom Clark, Alternate Member
Members Absent: None
Staff Present: J. Justin Woods, Planning Director, Brenda Belmonte, ZBA Secretary
Others Present: Charles Hackett

Meeting called to order by the Chair at 7:00, noting all members were present, including the alternate.

MINUTES

Rhodes asked for any corrections to the minutes of September 25, 2007. Motion by Williams seconded by Rowe to approve the September 25, 2007 minutes, Discussion: None, Motion Carries 5-0.

CONTINUED APPLICATIONS

None

Rerob site plan has been abandoned. Letter sent to applicant.

NEW APPLICATIONS

Charles Hackett Area Variance

Public Hearing called to order at 7:02.

The Planner described the variance request submitted by the applicant. The proposed addition would encroach into the required setbacks. The application has been sent to the county and returned for local determination. At its November 20th meeting, the planning board issued a resolution recommending a negative decision.

Charles Hackett explained that since he no longer works as a contractor, woodworking is his hobby. He would like a wood shop for relaxation and his own enjoyment. The addition would be directly off the back of his existing garage, however 4 foot wider and would extend 15 feet behind the garage. This would encroach 7.5 feet into the required setback. Rhodes asked if Hackett had explored any other alternatives that perhaps would not encroach on the setbacks. Hackett can see no other alternative that would give him the space that he would need. Seely asked what is currently at the rear of the property line. Hackett answered there is 100 plus feet to the back where another development is located. This 100 plus feet is the buffer zone. The Planner sent the five criteria that have to be addressed to Mr. Hackett to which he did not respond. The board gave Mr. Hackett the opportunity to address these criteria. Hackett does not believe this would result in an undesirable change. It would be finished as the house is with vinyl siding and would not be an eyesore. He does not feel it could be achieved by some other method. The Planner asked if Hackett could do the woodworking in the current garage. Hackett explained has been working in his garage, however his wife would like to know when she could have her garage back. Rhodes asked if the carport could be enclosed. Hackett replied no,

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1 because he would have to eliminate windows in the dining room and he does not believe that
2 would be allowed by town code. Seely is concerned with emergency vehicles being able to
3 reach the residences (between the houses) in that area. The planning board has said there have
4 already been some allowances for this area. Rowe asked if the request Hackett is making is
5 substantial to which Hackett replied yes, he believes it is. Williams questioned what is on the
6 back of the house. Hackett said there is one window in the house and one in the garage at this
7 point in time. Hackett doesn't believe it would cause any adverse affects on the neighborhood.
8 The water would still go to the back of the property as it does now. King questioned setting
9 precedence for the other lots. The ZBA has previously given a 6-foot allowance into the setback
10 for porches and decks. Hackett commented this would cause a 7.5-foot encroachment that he
11 does not believe is a self-created difficulty. It is due to the development of the size of the lot.
12 Had he known he would want to do this 5 or 6 years prior, he may have thought differently about
13 moving there. Seely said it would be nice to have a surveyed plot plan to look at.

14 **Public hearing closed at 7:19**

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16 **Motion to deny variance by Seely, seconded by Rowe, Discussion:** Rowe is worried about a
17 precedence being set, and in addition it would grandfather others ability to do this without having to come
18 back to the board. He feels it is substantial and it is self-created. Currently Hackett is using the garage and
19 could continue to use the garage. He already has the means to do the work he is doing. Perhaps he could
20 reconfigure it, make it smaller, but those are things the applicant must look at himself. **Motion Carries**
21 **5-0.**

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23 **MEMBERS COMMENTS**

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25 Tom Rhodes distributed his resignation letter to the board effective December 31, 2007. The Town board
26 is looking for recommendations for someone to fill the position. Seely submits Rowe as he is the most
27 experienced and senior member of the board. **Motion by Seely, seconded by Rhodes to recommend**
28 **Rowe as ZBA Chair. Discussion, None, Motion Carries 4-1, Rowe Abstains.**

29
30 **Zoning Changes**

31 The Planner reviewed the proposed changes with the board. The members feel that they would like to be
32 involved in this process. Rhodes feels it is important for the ZBA members to hear any discussions or
33 intent regarding ordinances. Rowe agreed, saying having input into the discussion creates a better
34 opportunity to apply the law when things are presented. It would lead to the board being more
35 knowledgeable in making their decisions. The Planner will forward the proposed zoning changes to the
36 members. **Motion by Rowe, seconded by Seely that this board feels it is important for them to be**
37 **involved, have representation in discussions, and have input regarding proposed zoning changes**
38 **and in decisions regarding ordinances. Discussion, None, Motion Carries 5-0.**

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41 **Motion to adjourn at 8:22pm by Rowe, Seconded by Seely, Discussion, None, Motion**
42 **Carries 5-0. Meeting adjourned at 8:21.**